

# SENATE BILL 208

E2, E4  
SB 435/10 – JPR

11r1255

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By: **Senators Stone, Jacobs, and Klausmeier**  
Introduced and read first time: January 27, 2011  
Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Offenders – Tracking Device as Condition of**  
3 **Probation and for Life After Release from Custody**

4 FOR the purpose of requiring a court to require a certain defendant, as a condition of  
5 probation, to register for certain electronic tracking by the Department of Public  
6 Safety and Correctional Services; authorizing a court to specify geographic  
7 locations to which certain defendants may not travel as a condition of probation;  
8 requiring a certain person who has been convicted of a certain offense for the  
9 second time or who is required to register as a sex offender for a term of life to  
10 register for electronic tracking with the Department and, after release from  
11 custody of a supervising authority, to wear at all times and for a term of life an  
12 electronic tracking device provided by the Department; requiring a person  
13 ordered by the court to register for electronic tracking as a condition of  
14 probation to register for electronic tracking with the Department, to wear at all  
15 times and for a certain length of time an electronic tracking device, and, with a  
16 certain exception, to pay the cost of electronic tracking established by the  
17 Department; requiring the Department actively, and in real time, to track  
18 electronically and to identify a certain individual's geographic location;  
19 requiring the Department to timely report to the appropriate court or law  
20 enforcement agency a certain individual's presence in a certain area; requiring  
21 the Department to develop certain procedures to determine, investigate, and  
22 report a certain individual's noncompliance with the terms and conditions of a  
23 court order or statute; requiring the Department to investigate immediately  
24 reports of noncompliance with a court order or statute; requiring the  
25 Department to contract with a local law enforcement agency to assist in the  
26 location and apprehension of certain individuals; requiring the Department to  
27 establish a reasonable fee for the cost of electronically tracking and, subject to a  
28 certain exception, to collect the fee from certain individuals; prohibiting a  
29 certain offender from failing to register under this Act, failing to wear a certain  
30 electronic tracking device, or altering, tampering with, damaging, or destroying  
31 a certain electronic tracking device; providing penalties for a violation of this

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Act; defining certain terms; and generally relating to electronic tracking of and  
2 movement restrictions on certain offenders.

3 BY adding to

4 Article – Criminal Procedure

5 Section 6–233; and 11–7A–01 through 11–7A–04 to be under the new subtitle

6 “Subtitle 7A. Electronic Tracking of Sexual Offenders”

7 Annotated Code of Maryland

8 (2008 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, without amendments,

10 Article – Criminal Procedure

11 Section 11–707

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2010 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Criminal Procedure**

17 **6–233.**

18 **IF THE COURT PLACES ON PROBATION A DEFENDANT WHO HAS BEEN**  
19 **CONVICTED OF A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW**  
20 **ARTICLE IN WHICH THE VICTIM WAS A MINOR, THE COURT:**

21 **(1) SHALL REQUIRE AS A CONDITION OF PROBATION THAT THE**  
22 **DEFENDANT REGISTER FOR ELECTRONIC TRACKING BY THE DEPARTMENT**  
23 **UNDER TITLE 11, SUBTITLE 7A OF THIS ARTICLE; AND**

24 **(2) MAY SPECIFY AS A CONDITION OF PROBATION GEOGRAPHIC**  
25 **LOCATIONS TO WHICH A DEFENDANT MAY NOT TRAVEL.**

26 11–707.

27 (a) (1) (i) A tier I sex offender and a tier II sex offender shall register  
28 in person every 6 months with a local law enforcement unit for the term provided  
29 under paragraph (4) of this subsection.

30 (ii) Registration shall include a digital image that shall be  
31 updated every 6 months.

32 (2) (i) A tier III sex offender shall register in person every 3  
33 months with a local law enforcement unit for the term provided under paragraph (4) of  
34 this subsection.

1 (ii) Registration shall include a digital image that shall be  
2 updated every 6 months.

3 (3) (i) A sexually violent predator shall register in person every 3  
4 months with a local law enforcement unit for the term provided under paragraph (4) of  
5 this subsection.

6 (ii) Registration shall include a digital image that shall be  
7 updated every 6 months.

8 (4) Subject to subsection (c) of this section, the term of registration is:

9 (i) 15 years, if the registrant is a tier I sex offender;

10 (ii) 25 years, if the registrant is a tier II sex offender;

11 (iii) the life of the registrant, if the registrant is a tier III sex  
12 offender; or

13 (iv) up to 5 years, if the registrant is a person described under §  
14 11-704(c)(1) of this subtitle, subject to reduction by the juvenile court on the filing of a  
15 petition by the registrant for a reduction in the term of registration.

16 (5) A registrant who is not a resident of the State shall register for the  
17 appropriate time specified in this subsection or until the registrant's employment,  
18 student enrollment, or transient status in the State ends.

19 (b) A term of registration described in this section shall be computed from:

20 (1) the last date of release;

21 (2) the date granted probation;

22 (3) the date granted a suspended sentence; or

23 (4) the date the juvenile court's jurisdiction over the registrant  
24 terminates under § 3-8A-07 of the Courts Article if the registrant was a minor who  
25 lived in the State at the time the act was committed for which registration is required.

26 (c) The term of registration for a tier I sex offender shall be reduced to 10  
27 years if, in the 10 years following the date on which the registrant was required to  
28 register, the registrant:

29 (1) is not convicted of any offense for which a term of imprisonment of  
30 more than 1 year may be imposed;

31 (2) is not convicted of any sex offense;

1 (3) successfully completes, without revocation, any period of  
2 supervised release, parole, or probation; and

3 (4) successfully completes an appropriate sex offender treatment  
4 program.

5 **SUBTITLE 7A. ELECTRONIC TRACKING OF SEXUAL OFFENDERS.**

6 **11-7A-01.**

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
8 INDICATED.

9 (B) "ELECTRONIC TRACKING" MEANS MONITORING 24 HOURS A DAY  
10 AND 7 DAYS A WEEK THE GEOGRAPHIC LOCATION OF AN INDIVIDUAL THROUGH  
11 THE USE OF AN ELECTRONIC TRACKING DEVICE.

12 (C) "ELECTRONIC TRACKING DEVICE" MEANS TECHNOLOGY THAT CAN  
13 DETERMINE THE LOCATION OF A TRACKEE AT ANY TIME AND IS APPROVED BY  
14 THE DEPARTMENT.

15 (D) "TRACKEE" MEANS A PERSON WHO IS REQUIRED TO REGISTER FOR  
16 ELECTRONIC TRACKING UNDER THIS SUBTITLE.

17 **11-7A-02.**

18 (A) A PERSON WHO HAS BEEN CONVICTED FOR A SECOND TIME OF A  
19 VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE IN WHICH  
20 THE VICTIM WAS A MINOR OR WHO IS REQUIRED TO REGISTER AS A SEX  
21 OFFENDER FOR A TERM OF LIFE UNDER § 11-707 OF THIS TITLE SHALL:

22 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE  
23 DEPARTMENT; AND

24 (2) AT ALL TIMES AND FOR A TERM OF LIFE AFTER RELEASE  
25 FROM CUSTODY OF A SUPERVISING AUTHORITY, WEAR AN ELECTRONIC  
26 TRACKING DEVICE PROVIDED BY THE DEPARTMENT.

27 (B) A PERSON WHO HAS BEEN ORDERED TO REGISTER FOR  
28 ELECTRONIC TRACKING AS A CONDITION OF PROBATION UNDER § 6-233 OF  
29 THIS ARTICLE SHALL:

30 (1) REGISTER FOR ELECTRONIC TRACKING WITH THE  
31 DEPARTMENT;

1           **(2) AT ALL TIMES, AND FOR THE LENGTH OF TIME ORDERED BY**  
2 **THE COURT, WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED BY THE**  
3 **DEPARTMENT; AND**

4           **(3) EXCEPT AS PROVIDED IN § 11-7A-03(C)(2) OF THIS SUBTITLE,**  
5 **PAY THE FEE FOR THE COST OF ELECTRONIC TRACKING ESTABLISHED BY THE**  
6 **DEPARTMENT IN ACCORDANCE WITH § 11-7A-03(C)(1) OF THIS SUBTITLE.**

7 **11-7A-03.**

8           **(A) THE DEPARTMENT SHALL:**

9           **(1) ACTIVELY, AND IN REAL TIME, TRACK ELECTRONICALLY AND**  
10 **IDENTIFY A TRACKEE'S GEOGRAPHIC LOCATION FOR AS LONG AS THE TRACKEE**  
11 **IS SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE; AND**

12           **(2) REPORT TO THE APPROPRIATE COURT OR LAW**  
13 **ENFORCEMENT AGENCY A TRACKEE'S PRESENCE IN A GEOGRAPHIC AREA IN**  
14 **WHICH THE TRACKEE HAS BEEN PROHIBITED TO TRAVEL BY COURT ORDER OR**  
15 **STATUTE.**

16           **(B) THE DEPARTMENT SHALL:**

17           **(1) DEVELOP PROCEDURES TO DETERMINE, INVESTIGATE, AND**  
18 **REPORT A TRACKEE'S NONCOMPLIANCE WITH TERMS AND CONDITIONS OF A**  
19 **COURT ORDER OR STATUTE;**

20           **(2) IMMEDIATELY INVESTIGATE A REPORT OF NONCOMPLIANCE**  
21 **BY A TRACKEE; AND**

22           **(3) CONTRACT WITH LOCAL LAW ENFORCEMENT AGENCIES TO**  
23 **ASSIST IN THE LOCATION AND APPREHENSION OF TRACKEES WHO ARE IN**  
24 **NONCOMPLIANCE WITH COURT ORDERS OR STATUTES AS REPORTED BY THE**  
25 **ELECTRONIC TRACKING DEVICES.**

26           **(C) (1) THE DEPARTMENT SHALL ESTABLISH A REASONABLE FEE**  
27 **FOR THE COST OF ELECTRONIC TRACKING AND, EXCEPT AS PROVIDED IN**  
28 **PARAGRAPH (2) OF THIS SUBSECTION, COLLECT THE FEE FROM EACH TRACKEE**  
29 **ORDERED TO WEAR AN ELECTRONIC TRACKING DEVICE.**

30           **(2) IF THE DEPARTMENT DETERMINES THAT A TRACKEE CANNOT**  
31 **AFFORD TO PAY THE FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS**

1 SUBSECTION, THE DEPARTMENT MAY EXEMPT THE TRACKEE WHOLLY OR  
2 PARTLY FROM THE FEE.

3 11-7A-04.

4 (A) A TRACKEE MAY NOT KNOWINGLY:

5 (1) FAIL TO REGISTER WITH THE DEPARTMENT;

6 (2) FAIL TO WEAR AN ELECTRONIC TRACKING DEVICE PROVIDED  
7 BY THE DEPARTMENT; OR

8 (3) ALTER, TAMPER WITH, DAMAGE, OR DESTROY AN ELECTRONIC  
9 TRACKING DEVICE PROVIDED BY THE DEPARTMENT.

10 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
11 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS  
12 OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2011.